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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/522,608 | 03/10/2000 | Yoshiaki Nozawa | WN-2155 | 4322 |
| 21254 | 7590 | 06/09/2005 | EXAMINER | |
| MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817 | | | NGUYEN, STEVEN H D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2665 | |

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/522,608

Applicant(s)

NOZAWA, YOSHIAKI

Examiner

Steven HD Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-8, 13-15 and 20 is/are rejected.
- 7) ☒ Claim(s) 5-6, 9-12, 16-19 and 21-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/28/05 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As claim 13, line 18, and claim 20, line 16, "at least one of a means cell rate or peak cell rate" is not disclose in the specification.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duault (USP 6108336) in view of Haas (WO 9945739).

Regarding claims 1 and 4, Duault discloses a system comprising a first local area asynchronous transfer mode (ATM) network including a plurality of first terminal devices (Fig 1, Ref Customer premises network), a second local area ATM network including a plurality of second terminal devices (Fig 1, Ref Customer premises network), and a public ATM network connected to said first and second ATM networks (Fig 1, Ref Public ATM network) comprising a first multiplex gateway device (Fig 1, Ref Private ATM switch) for connecting said first local area ATM network and said public ATM network; a second multiplex gateway device (Fig 1, Ref Private ATM switch) for connecting said second local area ATM network and said public ATM network, wherein said first and second multiplex gateway devices are configured to receive ATM transmission signals from said first and second local area ATM networks respectively. However, Duault fails to disclose perform a statistical multiplexing process to determine statistical information based on a mean rate and a peak cell rate associated with said ATM transmission signals and generate transmission statistical multiplex signals based on the statistical information and transmit said transmission statistical multiplex signals to said public

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ATM network and demultiplexing the statistical multiplexing for transmitting to its destination. In the same field of endeavor, Hass discloses a method and system for determining the statistic information "sum of SCR and PCR for determining a variance and load" based on a mean rate "SCR" and peak cell rate "PCR" in order to perform the statistically multiplexing the signals onto transmission path (See Abstract).

Since, a method and system for determining the information for using to perform a statistical multiplexing the signals for transmitting is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill at the time of invention was made to implement a method and system for determining statistical information based on a mean rate and a peak cell rate associated with said ATM transmission signals and generate transmission statistical multiplex signals based on the statistical information and transmit said transmission statistical multiplex signals to said public ATM network.

Regarding claim 3, Duault discloses separate said received transmission statistical multiplex signals into a plurality of receiving ATM signals, and wherein said first and second multiplex gateway devices are configured to transmit said receiving ATM signals to said first and second terminal devices through said first and second local area ATM networks, respectively (Fig 1, the private ATM switch routes the atm cells that received from the public atm network to its destination such ATM Endpoint).

6. Claims 2, 7, 13, 14 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Duault and Haas as applied to claim 1 above, and further in view of Grossglauser (USP 5604731).

Regarding claims 2, 7, 13, 14 and 20, Duault and Haas fail to expressly disclose a piece-wise constant bit rate that varies in a predetermined time interval. Grossglauser discloses a system and method for renegotiated bit rate service that can readily be applied to an existing CBR network architecture. This renegotiated constant bit rate (RCBR) invention allows for the implementation of an intelligent data traffic management systems that are responsive to the rate at which new calls or request for connections enter and leave the network and occurrences of data transmission peaks (col. 3, lines 1-12). The RCBR function is performed with the use of a Network Renegotiation Controller (213). Since the RCBR system provides CBR traffic that changes its rate from time to time, the RCBR system meets the limitation of a piece-wise constant bit rate system. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use the RCBR system of Grossglauser to monitor and renegotiate the rate of the CBR output of the system provided by Duault and Hass. One of ordinary skill in the art would have been motivated to do this to adapt the transmission rate according to changing network conditions and to avoid exceeding the maximum bit rate of the transmission channel.

7. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duault, Haas/Grossglauser as applied to claims 1 and 12 above, and further in view of Admitted prior art.

Duault and Haas/Grossglauser do not disclose terminal h.310. However, the admitted prior art discloses a plurality of terminals h.310. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a terminal h.310 as disclosed by the admitted prior art into the private network of Duault which suggests a video system.

Allowable Subject Matter

8. Claims 5-6, 9-12, 16-19 and 21-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gringeri (USP 6108382) discloses system and method for determining the SCR and PCR of video stream for setting up a connection via ATM network.

Dubuc (USP 6392994) discloses a method and system for multiplexing the streams into ATM interface.

Mio (USP 6738347) discloses a method and system for multiplexing the video streams into ATM interface.

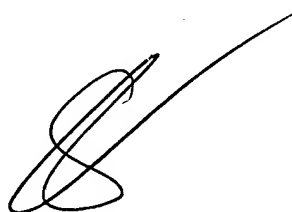
Haas (US 6307838) discloses a method and system for statistically multiplexing the connection onto ATM network which is same as (WO 9945739).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven HD Nguyen whose telephone number is (571) 272-3159. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, consisting of a stylized 'S' followed by a long, sweeping horizontal stroke that curves upwards at the end.

Steven HD Nguyen
Primary Examiner
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6/3/05